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Wilson et al
Case No. CE08893I

REMARKS

Reconsideration of the above-referenced application is respectfully requested in view of the above amendments and these remarks. Claims 1-21 are currently pending.

According to the Office Action, claims 1-21 are rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,564,049 B1 to Dailey. Applicants have carefully reviewed Dailey and in particular the sections cited in the Office Action. Applicants have amended independent claims 1, 9 and 20 to be consistent with independent 15. Applicants respectfully traverse the rejection.

The present invention is directed to a method and apparatus of making group calls among a plurality of mobile units in a communication network. The communication network includes a number of underlay cells, where each underlay cell is served by a base station. An overlay cell is established that includes at least two of the underlay cells. The overlay cell can be served by its own base station such that the overlay cell is larger than the underlay cells. At least one of the mobile units that are in the group call is in the overlay cell such that that mobile unit is in the overlay cell and one of the plurality of underlay cells. An association is established between the underlay cell and the overlay cell, and the group communication is established with the mobile unit using the overlay cell.

Dailey is directed to providing group calls between an originating terminal and a called terminal on a radiotelephone communications system. The system includes a switching center and a plurality of radio base stations that define cells and wherein each of the originating and called terminals is one of the cells. A group call origination message can be sent to a radio base station defining the cells within which the called terminal is located. After sending the group call setup message, first and second traffic channels can be designated for the originating terminal to provide communications between the originating and called terminals.

Dailey does not disclose underlay cells or overlay cells, nor does Dailey disclose that overlay cells are made up of at least two underlay cells. Moreover, Dailey does not disclose that the underlay cells are associated to the overlay cell and that the calls can be routed through the overlay cell. This can be seen by Figure 6, which shows a system for

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the invention disclosed by Dailey. Each of the cells 135 and served by one base station 137. Figure 6 and the accompanying description does not associate any of the cells with more than one base station or that any of the cells encompass more than one of any of the other cells. In fact, it appears from the drawings that each of the cells 135 are distinct from one another. Moreover, the description of Figure 8, which shows the group call setup process provided for by Dailey, does not disclose any additional information or any other association between the distinct cells found in Figure 6.

With respect to the statement that a group call setup message can be sent a radio station defining a cell within which the called terminal is located, Applicants respectfully submit that the radio station and cell referred to are the ones shown in Figure 6. This arrangement is known in the prior art as is evident from Figures 1 and 4. There is nothing within this language or elsewhere in Dailey to disclose that a cell that is defined by a radio station, which is equivalent to an underlay cell, can be associated with another radio station and another cell that encompasses more than one cell, such as the claimed overlay cell.

In view of the foregoing, Applicants respectfully submit that Dailey does not disclose the present invention as found in independent claims 1, 9, 15 and 20. In particular, Dailey does not disclose the underlay cells and overlay cells, the association between the underlay cell and the overlay cell and the use of the overlay cells to establish group calls between a plurality of mobile units. Accordingly, it is respectfully submitted that independent claims 1, 9, 15 and 20 are not anticipated by Dailey. As claims 2-8, 10-14, 16-19 and 21 depend upon and include the limitations of claims 1, 9, 15 and 20, respectively, Applicants submit that these dependent claims are not anticipated by Dailey for the same reasons. Applicants therefore request that the rejection under Section 102(e) be withdrawn.

As the Applicants have overcome all substantive rejections and objections given by the Examiner and have complied with all requests properly presented by the Examiner, the Applicants contend that this Amendment, with the above discussion, overcomes the Examiner's objections to and rejections of the pending claims. Therefore, the Applicants respectfully solicit allowance of the application. If the Examiner is of the opinion that

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any issues regarding the status of the claims remain after this response, the Examiner is invited to contact the undersigned representative to expedite resolution of the matter.

Please charge any fees associated herewith, including extension of time fees, to 50-2117.

Respectfully submitted,
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